

AMENDED IN ASSEMBLY APRIL 21, 2014

AMENDED IN ASSEMBLY MARCH 28, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2313

**Introduced by Assembly Members Nestande and Olsen
(Coauthor: Assembly Member Gray)**

February 21, 2014

An act to add *and repeal* Title 11.8 (commencing with Section 14190.15) ~~to~~ *of* Part 4 of the Penal Code, relating to metal theft, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2313, as amended, Nestande. Metal theft and related recycling crimes.

Existing law provides that any person who feloniously steals, takes, or carries away the personal property of another, or who fraudulently appropriates property that has been entrusted to him or her, is guilty of theft. Existing law also provides that a person who, being a dealer in or collector of junk, metals, or secondhand materials, buys or receives any wire, cable, copper, lead, solder, mercury, iron, or brass that he or she knows or reasonably should know is ordinarily used by, or ordinarily belongs to, a railroad or other transportation, telephone, telegraph, gas, water, or electric light company or county, city, or city and county without using due diligence to ascertain that the person selling or delivering the same has a legal right to do so, is guilty of criminally receiving that property.

~~Existing law establishes the Department of Justice, which is headed by the Attorney General and tasked with, among other things, representing California in criminal cases.~~

Existing law requires the Office of Emergency Services to administer a comprehensive statewide domestic violence program to establish a targeted or directed program for the development and establishment of domestic violence service in currently unserved and underserved areas, and establishes a grant program administered by the Office of Emergency Services for the distribution of financial and technical assistance to domestic violence shelter service providers for this purpose.

~~This bill, until December 31, 2020, would require the Department of Justice~~ *Office of Emergency Services to establish a Metal Theft Task Force Program to provide grants to applicant agencies for the purpose of providing local law enforcement and district attorneys with the tools necessary to successfully interdict the commission of metal theft and related metal recycling crimes. The bill would establish the Metal Theft Task Force Fund, to be administered by the department Office of Emergency Services, and would continuously appropriate all moneys in that fund to the department for the purposes of the program. The bill would impose a fee, to be deposited into the fund, of up to not to exceed 1% of the purchase price for each junk sale, which involves the sale of scrap metals and alloys, on the seller of junk for the purpose of regulating that seller, thereby making an appropriation. The bill would exempt a junk sale or transaction, which involves the sale of scrap metals and alloys, between junk dealers and recyclers, as defined, from the above-described fee.*

~~The bill would require agencies receiving funding from the program to submit an annual report, as specified, and would require the department Office of Emergency Services to use the information in those reports to review the program and report to the Governor and the Legislature.~~ *The bill would require the Office of Emergency Services to submit a comprehensive report to the Legislature, no later than December 31, 2019, on the status and progress, since the year 2016, of the program in deterring, investigating, and prosecuting metal theft and related recycling crimes. The bill would specify that the program would not be implemented until the Department of Finance Office of Emergency Services determines that sufficient moneys have been deposited in the fund to implement the program.*

~~This bill would also state findings and declarations of the Legislature relative to metal theft and the intent of the Legislature to provide local law enforcement with the tools to interdict metal theft and related metal recycling crimes.~~

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. (a) The Legislature finds and declares both of~~
2 ~~the following:~~

3 ~~(1) The theft of metal is a serious problem in California. Losses~~
4 ~~due to metal theft are not limited to the value of the metal taken,~~
5 ~~but frequently include the cost of repairing or replacing the~~
6 ~~infrastructure, component, or item from which the metal was~~
7 ~~removed, which greatly exceeds the value of the metal itself.~~

8 ~~(2) The United States Department of Energy estimates that metal~~
9 ~~theft costs United States businesses approximately one billion~~
10 ~~dollars (\$1,000,000,000) annually.~~

11 ~~(b) It is the intent of the Legislature in enacting this act to~~
12 ~~provide local law enforcement and district attorneys with the tools~~
13 ~~necessary to successfully interdict the commission of metal theft~~
14 ~~and related metal recycling crimes.~~

15 ~~SEC. 2.~~

16 ~~SECTION 1.~~ Title 11.8 (commencing with Section 14190.15)
17 ~~is added to Part 4 of the Penal Code, to read:~~

18
19 TITLE 11.8. THEFT AND RECYCLING OF METALS

20
21 14190.15. For the purposes of this title, the following ~~terms~~
22 ~~have the following meanings~~ *definitions shall apply:*

23 (a) “Agency” means a regional task force, a local law
24 enforcement agency, or a district attorney.

25 (b) “Department” means the ~~Department of Justice~~ *Office of*
26 ~~Emergency Services.~~

27 (c) “Fund” means the Metal Theft Task Force Fund.

28 (d) “Program” means the Metal Theft Task Force Program.

29 14190.20. (a) The Metal Theft Task Force Fund is hereby
30 established within the State Treasury. Notwithstanding Section
31 13340 of the Government Code, the fund is hereby continuously

1 appropriated to the department for the purposes set forth in this
2 title. Transfers to the Metal Theft Task Force Fund shall be
3 deposited in the State Treasury, or in a state depository bank
4 approved by the Treasurer.

5 (b) The fund shall consist of moneys deposited into it from the
6 federal government, industry, and private sources, and from fees
7 collected pursuant to Section 14190.45. General Fund moneys
8 shall not be deposited into the fund nor used to start up, implement,
9 or support the continuing administration of the provisions of this
10 title.

11 (c) The fund shall be administered by the department.

12 (d) Moneys distributed from the fund pursuant to the program
13 established pursuant to Section 14190.25 are intended to ensure
14 that local law enforcement and district attorneys are equipped with
15 the necessary personnel and tools to successfully combat metal
16 theft and related recycling crimes, which include, but are not
17 limited to, all of the following offenses:

18 (1) The theft of metals, including, but not limited to, nonferrous
19 metals.

20 (2) The purchase and recycling of stolen metals, including, but
21 not limited to, recycled metal beverage containers, by recyclers.

22 (3) The transportation of stolen metals from this state to another
23 state.

24 (4) The transportation of stolen metals from another state to this
25 state.

26 (5) *Unlicensed recycling operations.*

27 14190.25. (a) The department shall establish the Metal Theft
28 Task Force Program. Administration of the overall program and
29 the evaluation and monitoring of all grants made pursuant to this
30 title shall be performed by the department.

31 (b) Moneys appropriated to the department for the program shall
32 be expended for programs that enhance the capacity of local law
33 enforcement and prosecutors to deter, investigate, and prosecute
34 metal theft and related recycling crimes.

35 (c) After deduction of the department's actual and necessary
36 administrative costs, the moneys in the fund shall be expended for
37 programs to enhance the capacity of local law enforcement and
38 prosecutors to deter, investigate, and prosecute metal theft and
39 related recycling crimes.

(d) Moneys distributed under this program shall be expended for the exclusive purpose of deterring, investigating, and prosecuting metal theft and related recycling crimes. Agencies that receive moneys pursuant to the program may consult with experts from the United States military, the California Military Department, law enforcement entities, and various other state and private organizations, including pertinent trade associations, as necessary to maximize the effectiveness of this program.

14190.30. (a) The department shall develop administrative procedures for the selection of agencies to receive a grant under this program, which shall include, at a minimum, the following requirements:

(1) That each agency seeking a grant submit a written application to the department setting forth in detail the proposed use of the grant funds.

(2) That, if an applicant agency is a regional task force, the task force shall be identified by a name that is appropriate to the area that it serves and, in order to qualify for a grant, shall be comprised of local law enforcement and prosecutors from at least two counties.

~~(3) That priority be given to agencies that are regional task forces outside of the 13 counties funded under the rural crime prevention programs authorized pursuant to Sections 14170 and 14180.~~

(3) That 65 percent of each grant issued shall be dedicated to the investigation and prosecution of unlicensed junk dealers.

(4) That priority be given to applicant agencies in areas with high rates of reported metal thefts.

(b) The department shall develop specific guidelines for the selection of agencies to receive a grant under this program. The guidelines shall include, at a minimum, all of the following selection criteria, which shall be considered by the department in awarding grants:

(1) The number of metal theft or related recycling crime cases filed in the immediately preceding year.

(2) The number of metal theft or related recycling crime cases investigated in the immediately preceding year.

(3) The number of victims involved in the cases filed.

(4) The total aggregate monetary loss suffered by the victims, including damage caused by the theft.

1 (5) Local moneys available to assist the agencies.

2 (6) The number of licensed recycling facilities in the area.

3 14190.35. (a) Each agency that has been awarded a grant under
4 the program during the previous funding cycle shall, upon
5 reapplication for funds to the department in each successive year
6 and in addition to any other information required by this title,
7 submit a detailed accounting of moneys received and expended in
8 the immediately preceding year.

9 (b) The accounting shall include all of the following information:

10 (1) The amount of moneys received and expended.

11 (2) The use to which those moneys were put, including payment
12 of salaries and expenses, purchase of equipment and supplies, and
13 other expenditures by type.

14 (3) The number of filed complaints, investigations, arrests, and
15 convictions for metal theft and related recycling crimes that
16 resulted from expenditure of the funds.

17 14190.40. (a) The department shall regularly review the
18 effectiveness of the program in deterring, investigating, and
19 prosecuting metal theft and related recycling crimes and shall,
20 notwithstanding Section 10231.5 of the Government Code, submit
21 a report to the Legislature and Governor that is based on reports
22 submitted to the department pursuant to subdivision (b).

23 (b) Agencies receiving funding from the program shall submit
24 an annual report to the department that details all of the following:

25 (1) The number of metal theft and recycling crime cases filed
26 in the immediately preceding year.

27 (2) The number of metal theft and recycling crime cases
28 investigated in the immediately preceding year.

29 (3) The number of victims involved in the cases filed.

30 (4) The number of convictions obtained in the immediately
31 preceding year.

32 (5) The total aggregate monetary loss suffered by the victims,
33 including damage caused by the theft.

34 (6) An accounting of moneys received and expended in the
35 immediately preceding year, which shall include all of the
36 following:

37 (A) The amount of moneys received and expended.

38 (B) The uses to which those moneys were put, including
39 payment of salaries and expenses, purchase of supplies, and other
40 expenditures.

1 (C) Any other relevant information requested.

2 (c) *By no later than December 31, 2019, the department shall,*
3 *notwithstanding Section 10231.5 of the Government Code, submit*
4 *a comprehensive report to the Legislature on the status and*
5 *progress, since the year 2016, of the program in deterring,*
6 *investigating, and prosecuting metal theft and related recycling*
7 *crimes. The report shall be based on each annual report submitted*
8 *to the department pursuant to subdivision (b).*

9 14190.45. ~~A-(a) Except as provided in subdivision (b), a fee~~
10 ~~of up to, determined by the department, not to exceed 1 percent of~~
11 ~~the purchase price for each junk sale, as defined in Section 21600~~
12 ~~of the Business and Professions Code, sale, which involves the~~
13 ~~sale of any scrap metals or alloys, shall be assessed on the seller~~
14 ~~of junk for the purpose of regulating that seller. The fee assessed~~
15 ~~pursuant to this section shall be collected by junk dealers, as~~
16 ~~defined in Section 21601 of the Business and Professions Code,~~
17 ~~dealers and recyclers, as defined in Section 21605 of the Business~~
18 ~~and Professions Code, recyclers at the time each sale is conducted,~~
19 ~~and shall be submitted to the Controller Treasurer for deposit into~~
20 ~~the fund.~~

21 (b) *Each junk sale or transaction, which involves the sale of*
22 *any scrap metals or alloys, between junk dealers and recyclers*
23 *shall not be subject to the fee described in subdivision (a).*

24 (c) *For purposes of this section, the following definitions shall*
25 *apply:*

26 (1) *“Junk” has the same meaning as set forth in Section 21600*
27 *of the Business and Professions Code.*

28 (2) *“Junk dealer” has the same meaning as set forth in Section*
29 *21601 of the Business and Professions Code.*

30 (3) *“Recycler” has the same meaning as set forth in Section*
31 *21605 of the Business and Professions Code.*

32 14190.50. (a) The program established pursuant to this title
33 shall not be implemented until the ~~Department of Finance~~
34 ~~department~~ determines that sufficient moneys have been deposited
35 in the Metal Theft Task Force Fund to implement the provisions
36 of this title.

37 (b) The department shall only be required to implement the
38 provisions of this title upon the availability of moneys in the fund
39 in an amount sufficient to cover all costs relating to the startup,

1 implementation, and continuing administration of the provisions
2 of this title.

3 14190.55. The department may adopt regulations as needed to
4 administer this title.

5 *14190.60. This title shall remain in effect only until December*
6 *31, 2020, and as of that date is repealed, unless a later enacted*
7 *statute, that is enacted before December 31, 2020, deletes or*
8 *extends that date.*